

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) CASE NO. 3:14-cr-00059-RRB
)
PAUL D. STOCKLER,)
)
 Defendant.)
_____))

TRANSCRIPT OF IMPOSITION OF SENTENCE
BEFORE THE HONORABLE RALPH R. BEISTLINE, DISTRICT JUDGE
Friday, April 15, 2016; 10:01 A.M.
Anchorage, Alaska

FOR THE GOVERNMENT:

U.S. Department of Justice, Tax Division
BY: KEVIN F. SWEENEY and KATHERINE L. WONG
601 D Street NW, Room 7909
Washington, D.C. 20004
703-299-3999

FOR THE DEFENDANT:

Kasowitz Benson Torres & Friedman
BY: MARCUS S. TOPEL and LYN R. AGRE
101 California Street, Suite 2300
San Francisco, California 94111

COURT RECORDER:

Denali Elmore
222 West 7th Avenue, #4
Anchorage, Alaska 99513
907-677-6123

R. JOY STANCEL, RMR-CRR
Federal Official Realtime Reporter
222 West 7th Avenue, #4
Anchorage, Alaska 99513
Proceedings Recorded by Digital Recording
Transcript Produced by Computer

1 (Call to Order of the Court at 10:01:26 a.m.)

2 DEPUTY CLERK: All rise. His Honor, the Court, the
3 United States District Court for the District of Alaska is now
4 in session, the Honorable Ralph R. Beistline presiding.

5 Please be seated.

6 THE COURT: All right. Good morning, everybody.
7 Everybody ready? Who's speaking for who?

8 MR. TOPEL: I am speaking for Paul Stockler. My name
9 is Mark Topel.

10 THE COURT: Okay.

11 MR. TOPEL: Good morning, Your Honor.

12 MR. SWEENEY: And my name is Kevin Sweeney. I'll be
13 speaking for the Government, Your Honor.

14 THE COURT: Okay. And everybody's ready to go; true?

15 MR. SWEENEY: Yes, Your Honor.

16 THE COURT: Okay. Well, my notes reflect -- well,
17 we're on the record, United States of America versus Paul D.
18 Stockler. It's Case Number 3-14-59. My notes reflect that it
19 was June 26th of 2014 that defendant pled guilty to three
20 counts of wire -- of willful failure to file an income tax
21 return. One was for the year 2006, the other the year 2008,
22 and the other the year 2009. All are Class A misdemeanors.

23 Later, an evidentiary hearing was conducted by Judge
24 Gleason and she concluded that the tax loss was \$886,058, and
25 that's reflected at Docket 39.

1 After this was all taken care of, a presentence
2 report was ordered. The parties filed their respective
3 objections that were all addressed by the probation officer.
4 Defendants objected to the tax loss amount, but other than
5 that, none of the objections appear to impact the sentencing in
6 this matter. And the tax loss amount is the law of the case at
7 this point.

8 So other than that, are there any other changes or
9 additions to the presentence report from the Government?

10 MR. SWEENEY: None, Your Honor.

11 THE COURT: From the Defendant?

12 MR. TOPEL: No, Your Honor.

13 THE COURT: Okay. Probation officer is here.
14 Anything to add?

15 MS. HENSEL: No, Your Honor.

16 THE COURT: Okay. The Court will accept the
17 presentence report and the factual statements that are
18 contained in it, having been established by preponderance of
19 reasonably reliable evidence. It appears we have, by
20 preponderance of the evidence, the sentencing guideline range.
21 While the offense level is 17, the criminal history category is
22 I, so the range would be 24 to 30 months. Each count carries a
23 maximum one year in prison. So the statutory maximum today is
24 three years in prison.

25 I have studied all of the papers filed in this

1 matter. I've studied the parties' memorandum. I've studied
2 the presentence report. I've looked just recently to the
3 amendment to the plea agreement, and I have studied the
4 numerous letters submitted on defendant's behalf. So I have a
5 good understanding of the case. I don't know how much you want
6 to repeat here this morning. I've read it all many times.

7 Anything that I need to be aware of before we begin?

8 MR. TOPEL: No, Your Honor, not from us.

9 MR. SWEENEY: Not from us, Your Honor.

10 THE COURT: Okay. So what's the Government's
11 recommendation?

12 MR. SWEENEY: Your Honor, the Government's
13 recommendation is a sentence of 24 months imprisonment,
14 restitution in the amount of \$886,058, which was the amount
15 determined by Judge Gleason to be the tax loss, and a fine of
16 \$10,000.

17 THE COURT: Okay. Anything to add?

18 MR. SWEENEY: Should I take the podium or just speak
19 from here?

20 THE COURT: You can speak wherever you're
21 comfortable.

22 MR. SWEENEY: Okay. Yeah, well, Your Honor,
23 obviously that's an advisory guideline sentence, but it's the
24 low end and we don't think there's any facts in this case that
25 justifies varying any lower than that.

1 THE COURT: Okay.

2 MR. SWEENEY: Now, Mr. Stockler submitted a written
3 statement to Probation as part of this case and to his credit,
4 he's admitted to what he did, and he's offered some
5 justification for, and mainly he blames some of that on a
6 divorce that he was going through and financial trouble that he
7 ran into in 2007 regarding a settlement. And specifically,
8 when he admitted to what he did, he limited those years from
9 2006 to 2009, and that's because that was what was charged in
10 the case, but this case is actually much broader than that and
11 Mr. Stockler's conduct goes back much further.

12 He didn't file a timely tax return for 2000, 2001,
13 2002, 2003, and despite in his statements to Probation he said
14 he filed a timely return for 2004, in fact, he did not. And in
15 those years, the Government hasn't found any evidence that he
16 was having financial troubles, and at least in the early part
17 of those years, it doesn't appear that, you know, he was
18 having -- or he was going through a divorce.

19 In fact, he's actually only filed one timely tax
20 return from years 2000 to 2011. And he did so only after he
21 was told by an IRS collection officer that if he did not start
22 to file, that he could be criminally prosecuted, and after
23 that, there was a court order regarding his divorce settlement
24 that made him -- made sure that he filed tax returns. And so
25 it wasn't something that he did on his own. It's something

1 that his filing was provoked by events, other events that
2 happened, events where he had some reason to be concerned.

3 And for a lot of people, the IRS telling you you're
4 going to be criminally prosecuted would be enough to get you on
5 the straight and narrow, to get you on the path to filing. But
6 that wasn't the case for Mr. Stockler. One year he timely
7 filed, but the next year he went right back to his old ways,
8 didn't file another return until 2013. That date's significant
9 because at that point, he was already under criminal
10 investigation and he knew it. So once again, corrected the
11 behavior, not for a long time, but only in response to some
12 government action or the threat of government action.

13 His -- his tax problems aren't just limited to his
14 return. He also was failing to file and to pay his employment
15 taxes. Even in those circumstances, the IRS wasn't able to
16 collect the money (indiscernible). They had to file liens in
17 order to try to collect it.

18 And all the time that he's owed this money to the
19 IRS, he's been living a pretty lavish life-style. He drives
20 cars like Porsches and BMWs and Teslas. He spends his money
21 gambling, tens of thousands of dollars in casinos in Las Vegas,
22 and he's lost hundreds of thousands of dollars trading very
23 speculative options with the personal E*Trade account that he
24 has. And so it's not that Mr. Stockler couldn't afford to
25 file -- to pay his taxes, it's just simply that he didn't want

1 to.

2 And so I think what that tells us about Mr. Stockler
3 is he's not capable of changing things around on his own. He
4 really needs some force to step in and force a change in views.
5 And the defense in this case has asked for a probationary
6 sentence. Alternatively, they ask for home detention, and
7 that's simply not enough. Mr. Stockler needs to go to a real
8 jail with real bars. He needs to be placed in real handcuffs,
9 because I think that's the only way that we're going to send a
10 message to him about what he needs to go -- do going forward.

11 The other thing, Your Honor, is besides having to
12 deter Mr. Stockler, it's also important to send a message to
13 other people who, like Mr. Stockler once was, was considering
14 whether or not to actually comply with the tax obligations they
15 know they have. And today is actually kind of a particularly
16 significant day. It's April 15th. Typically, that's known as
17 tax day. It's actually not, in fact, tax day this year because
18 taxes aren't due until April 18th, which is Monday, but what
19 that means is right now, there's people all over the country
20 trying to figure out whether they're going to file their tax
21 returns and they're going to take note of the sentences that
22 judges are handing out for failure to file tax returns and
23 they're going to look at the sentence that you adjudge to
24 Mr. Stockler, and we think that it needs to be stiff enough for
25 people to not want to take that chance, to not take that

1 gamble, and to do what's right, because, one, it's the right
2 thing to do, but also because they know if they don't, there'll
3 be severe consequences.

4 Now, Mr. Stockler, like many defendants, provided the
5 Court with letters of support from colleagues and family
6 members. Several of these letters describe him as a very
7 ethical attorney who has the utmost respect for the law, but
8 the evidence in this case in some respects paints a little bit
9 different picture, a picture of somebody who toes the line of
10 ethics in legal matters.

11 In addition to just the general lack of respect for
12 the IRS filing laws, Mr. Stockler has been interviewed and has
13 corresponded with IRS officials about paying the taxes, the
14 back taxes that he owes in the past, and in particular, he did
15 that in 2009 and 2010. In 2010, he was asked to complete
16 what's called a Form 433-A. And basically, the purpose of that
17 form is to identify assets for the IRS and income to the IRS
18 that would allow them to collect on back taxes, and that form
19 is signed under penalties of perjury. And as an attorney,
20 Mr. Stockler's well aware of what that means. And he filled
21 out the form. He listed lots of assets and income, but he did
22 not list two retirement accounts that he had. And he submitted
23 that document to the IRS, and this type of imprecision in a
24 document is important, I think shows that at least in some
25 instances, he has not had the respect for the laws that he

1 should.

2 Additionally, as you pointed out, there's a two-day
3 evidentiary hearing in this case back in March of 2015, and the
4 issue in that case was whether Mr. Stockler could deduct
5 trading losses or the extent of the trading losses he could
6 deduct for some trading that he did out of his personal E*Trade
7 account. And during that hearing, Mr. Stockler testified that
8 some of the money in that account came from an entity called
9 Security Aviation, which was owned by an individual named Mark
10 Avery. And then in a previous matter, in U.S. Bankruptcy
11 Court, he admitted that SAI also paid additional money into his
12 law firm's IOLTA account, which in some parts of the case, also
13 is used to pay him legal fees which he earned for representing
14 related individuals. In total, Mr. Stockler received about
15 \$8 million into his IOLTA account from SAR -- SAI. And since
16 2006, Mr. Avery has been convicted of wire fraud for instances
17 related to his operation of SAR -- SAI.

18 And also in that 2006 bankruptcy court matter that we
19 previously talked about, Mr. Stockler told the Court about how
20 he once advised a client named Rob Kane that there wasn't a lot
21 of defenses to the crime of willful failure to file, and he
22 actually, in that case, assisted Mr. Kane in filing back tax
23 returns that he was late on and in paying those taxes, yet he
24 stands before you today convicted of doing exactly what he
25 advised his client not to do. And for people to respect the

1 laws and the tax laws in particular, it's important that they
2 see that people are treated equally. And so though
3 Mr. Stockler is an attorney, he has to play by the same rules
4 as everybody else. And if he receives a lenient sentence,
5 maybe a sentence of probation or a sentence to home confinement
6 in lieu of incarceration, people may look at this case and say,
7 Mr. Stockler, as an officer of the Court, he got a break, a
8 break that maybe I wouldn't have gotten had I done the same
9 thing.

10 And so in this case, the advisory sentencing range
11 calls for a term of imprisonment of 24 months at the low end.
12 As I told you when we started, that's what we recommend in this
13 case. We don't think it's more -- it's more severe than
14 necessary to accomplish all the sentencing purposes, but we ask
15 that any sentence in this case include a term of imprisonment,
16 in real prison with real bars and real handcuffs, because
17 that's what Mr. Stockler deserves and that's the only way we
18 believe that Mr. Stockler will get back onto the straight and
19 narrow.

20 Your Honor, also, we would ask that -- I'm not sure
21 that this was clear in the PSR, but we'd ask as a condition of
22 Mr. Stockler -- the condition of Mr. Stockler's supervised
23 release, that he be asked to timely file tax returns, including
24 the years 2006, 2008, and 2009 and to timely file and pay taxes
25 in the future. I think in the PSR it talks about paying taxes

1 in the future. We weren't so clear as to whether that meant he
2 had to go back and file the returns that he failed to file and
3 for which he's pled guilty to, and we'd ask that you order that
4 as a term of his supervised release.

5 THE COURT: Number 1 says, "Defendant shall cooperate
6 with a reasonable request of the Internal Revenue officers and
7 in good faith, best efforts attempt to pay in full any
8 outstanding tax liability." Doesn't that cover it?

9 MR. SWEENEY: Sort of. It doesn't -- it doesn't --
10 doesn't require that he file, but we think he should. I think
11 inherent in that, it assumes he's going to file, but we'd just
12 ask that you make that clear and you specifically order it.

13 THE COURT: Okay.

14 MR. SWEENEY: That's all I have, Your Honor. Thank
15 you.

16 THE COURT: Thank you. Okay, Counsel?

17 MR. TOPEL: Thank you, Your Honor. Good morning
18 again. My name is Mark Topel.

19 THE COURT: Yes, sir.

20 MR. TOPEL: And I am speaking for Paul Stockler and I
21 speak for him proudly, and it goes without saying. And I will
22 touch on some of the factual matters that Mr. Sweeney touched
23 on, because we certainly disagree with them, and we believe the
24 record clearly indicates the basis for that disagreement.

25 Paul Stockler is, first and foremost, a good and

1 decent man. You have told us that you read the letters from
2 many of the prominent and highly respected attorneys in this
3 community and from many individuals who have lived in this
4 community who have worked with Paul, who have come to like him
5 and respect his ethics and his integrity and his honesty in
6 dealing with them. And of particular note, I would point out
7 the letter that this Court has in the file from Cabot
8 Christianson, who was the attorney for the trustee in the
9 Security Aviation bankruptcy matter, wherein he says, and I
10 think I'm quoting him almost directly, that in all of his
11 dealings with Paul Stockler, he found him to be incredibly
12 honest, not to stretch the truth, not to exaggerate anything.

13 And as Your Honor knows from having recently sat in
14 the Avery case, that Paul was Mr. Kane's lawyer and did some
15 work for Security Aviation, and that the very matters that were
16 touched on briefly by Mr. Sweeney in his comments to the Court
17 were examined very, very deeply and carefully by
18 Mr. Christianson and Mr. Barstow during that time. And I find
19 it particularly telling that here, now, some years later,
20 Mr. Christianson not only has attested to Paul Stockler's
21 honesty in that matter, but has used him as co-counsel and as
22 counsel after that matter in some cases that he and Mr. Barstow
23 had.

24 Letter after letter talks about how Paul Stockler,
25 who has never been in criminal trouble in his life prior to

1 this time, and has now freely admitted and quickly admitted his
2 failure to file and takes responsibility for his failure to
3 file, that he has spent the last 40 years building a reputation
4 based on public service, first for the District Attorney and
5 then assisting Senator Stevens, selected by Senator Stevens to
6 do work in Washington, and throughout this time -- and then in
7 private practice. And throughout this time, you have read from
8 doctors and lawyers that he has devoted considerable time to
9 pro bono work, both for positions that couldn't afford his --
10 to pay him, and for individuals. You heard from a current
11 clerk of this court for many years, a friend of Mr. Stockler
12 who has provided free legal services for her and then for her
13 daughter. You heard from numerous citizens in this, high and
14 low -- not particularly powerful, not particularly influential,
15 not well-known, who came to Paul and needed help and he didn't
16 hesitate to help them.

17 So what does this say to this Court about this man
18 now facing sentencing? I think more importantly, for this
19 moment, what does it say about what an appropriate sentence
20 would be? And I want to point out something that I thought was
21 really very, very telling, even though we are not going to be
22 discussing because we're going to be appealing Judge Gleason's
23 finding. We think that it's not correct, but with all due
24 respect, this was her finding and it is the law of the case, as
25 you point out. But she said, in reference to the matter that

1 Mr. Sweeney talked about of a Form 433-A given to an IRS agent,
2 which Mr. Sweeney said somehow shows that Paul was arguably
3 dishonest in not completing the form completely, this is what
4 the Court found, and I'm reading directly from her order, and
5 I'm reading at Paragraph 21.

6 "Mr. Stockler signed a Form 433-A disclosure
7 statement dated June 28th of 2010 in which he provided an
8 accounting of assets and liability under penalty of perjury.
9 The Court finds that Mr. Stockler was not precise in completing
10 the Form 433-A but did not intend to deceive the IRS about his
11 assets and liabilities."

12 This was a matter that was testified to in front of
13 Judge Gleason by Mr. Stockler under oath during our hearing.
14 And she made this finding after that hearing. And that finding
15 is entirely consistent with the letter after letter after
16 letter after letter that has been provided here for
17 Mr. Stockler, attesting to his integrity and his honesty.

18 In sentencing Mr. Stockler, these are important,
19 because under the guidelines, downward departure, the very
20 first one that directs the Court to take into account the
21 defendant's character and his pattern of conduct. Before you
22 isn't a criminal. It is true that he did not file his returns.
23 He should have filed them. I don't think that it's correct to
24 argue that because he previously had filed late returns that
25 somehow this indicates that he should get a serious or heavy

1 sentence here, nor do I think it's appropriate, and I've never
2 thought it's appropriate, the "send the message" argument that
3 the Government repeatedly made here. There's plenty of cases
4 where the Government had an opportunity to send a message to
5 the American people about how vigorously they prosecute crime,
6 wherein they have not, and it is quite a different thing where
7 you have a good and law-abiding citizen who has done tremendous
8 amounts for his community before you on three misdemeanors the
9 very first time. And the idea that he needs a taste of
10 handcuffs and bars is -- not in any manner, I think, should be
11 persuasive to you when you're judging the individual before
12 you, who unlike many people who have come before this Court and
13 other courts, is truly a good and decent man, a moral man, a
14 man who spends his life doing good for others. It would, I
15 think, be a distortion of any kind of equitable criminal
16 justice system for you to put him in prison.

17 Having said that, we have recommended to you that a
18 period of home confinement would be appropriate because under
19 the regulations, he could continue to meet his obligations of
20 his very busy practice. And also be able to pay the taxes and
21 whatever restitution that you feel is appropriate. If his
22 practice is dismembered and put into shambles by the fact that
23 he can't be available to do the trials -- he's a trial lawyer,
24 as I'm sure you know -- then he's not going to be able to pay
25 back the taxes that he owes.

1 One thing that I want to assure the Court, that every
2 plan is in place after the sentencing is completed to start
3 filing returns. As the Court, I'm sure, is aware, there is a
4 bar on resolving questions on the civil side of the IRS while
5 the criminal case is going on. With your sentencing completed,
6 I believe that bar will be lifted and we will be able to file
7 the returns that are due and going forward into -- into the
8 future. I suppose technically, that could be done at any time
9 now, but he has been advised -- and he's not a tax attorney and
10 he does not -- and he has never represented anybody in a tax
11 matter, civil, criminal, or administrative -- to file those
12 returns and if the Court would so order it. And I believe that
13 the condition that the Probation Office put in was -- was an
14 order for that. It will be done forthwith, and of course, the
15 Probation Department will know about it.

16 This is a very different, at least in my
17 experience -- and which unfortunately is more considerable than
18 I care to talk about at this point -- this is a unique case
19 with a unique man. He's told you, he's told the Probation, and
20 he's prepared to tell you now when I complete my remarks of his
21 remorse and how he has been shamed in his community. He feels
22 shamed, not as attested to in the letters. Tim Petumenos, I
23 think, comments that -- about that in his letter. He's shamed.

24 I mean, he was a proud and prominent member of this
25 community's legal community and felt that he was living a moral

1 life. You know, it's a pattern that we do so where there are
2 people who take great care of other people and allow their own
3 personal affairs to fall into shambles, which he did, and he
4 has suffered. He has suffered greatly, and I'm sure that
5 whatever sentence you construct here will cause him
6 additional -- additional pain.

7 You've seen a lot of people. You've been a judge --
8 I've never appeared in front of you, but I know, I've looked
9 up, you've been a judge for a long time and I think it's fair
10 to say to you that you have not seen a defendant in a criminal
11 case with as many equities going for him and as much remorse as
12 he has during the time that you've been facing these very
13 difficult sentencings. And so I ask you to express this in a
14 wise sentence, a sentence that allows him to continue serving
15 the community and maintaining his practice. That could be done
16 by a period of probation coupled with home confinement, subject
17 to release to do his trials. And I leave it to you. It seems
18 to me that everything that needs to be said has been said, and
19 it's left to your judgment. Thank you, sir.

20 THE COURT: All right. Thank you.

21 All right, Mr. Stockler, what do you have to say?
22 Wherever you're comfortable. That's fine.

23 THE DEFENDANT: I apologize that I appear before you,
24 I think for the first time, Your Honor, as a defendant and not
25 as an attorney. I've been practicing law in Alaska since I was

1 24 years old. I've tried cases in Fairbanks, both shortly
2 before you were on the bench in Fairbanks, during the time that
3 you were a judge in Fairbanks, but I never had the pleasure of
4 appearing before you.

5 I apologize to the United States of America,
6 Department of Treasury, the attorneys for the United States
7 that have been assigned to -- they've had to waste their time
8 chasing after me, to the Alaska Bar association, to all
9 lawyers, because I've really spent my entire adult life trying
10 to make a good name for lawyers and am embarrassed and
11 humiliated that I failed to file my federal income tax returns
12 for the years 2006 through 2009. I accept that I am
13 responsible for that and I don't make any excuses.

14 By the time 2006 rolled around, I just got myself dug
15 in such a deep hole that I had no way to pay what I thought I
16 owed. I didn't know anything about this trader status, which
17 certainly if I had been advised when my accountant was
18 preparing my 2004 and 2005 tax returns, I certainly would have
19 elected, because I wouldn't have had any tax liability, and I
20 was not told that. And it must be a character flaw that I just
21 kept my head down and kept working on other people's cases and
22 failed to take care of my own problems. And I accept that's my
23 fault and it's my character flaw.

24 I want to touch briefly on the statement about
25 employment tax. There was a time I was behind in employment

1 taxes, but that was eight -- I think maybe eight years ago. I
2 haven't -- I haven't missed an employment tax payment in eight
3 years. We got caught up and got on the electronic filing
4 system and those are filed automatically and that amount --
5 that amount, paying that, getting caught up, failing in that
6 and paying that is one of the things that got me behind,
7 because the penalties and interest, I had to pay that.

8 I am humiliated that such a small town, Anchorage is,
9 Fairbanks is, I think I've tried a case in every city and
10 wherever I've gone, I've tried to make myself available to
11 people, and I think the letters reflect that. If I'm at the
12 gym and I'm running, I've got my headphones on, it's not
13 uncommon for someone to tap me on the shoulder and say, "I need
14 the name of a good divorce lawyer," you know, "Can I give you
15 my phone number and can you call me?" And for 30 years, I've
16 done that. And it's humiliating to be here.

17 It's not the example I wanted to set for my daughter.
18 I've tried to teach her right from wrong and I am certainly
19 wrong and I feel terrible that this is one of the examples I
20 set for my daughter.

21 I don't ask for -- I'll leave sentencing up to you.
22 I'll just tell you that I've punished myself much harder than
23 any of you could imagine. Being proud of what you've done for
24 30 years, being a proud member of society and having your case
25 be on the front page of the ADN twice, probably today a third

1 time, it's humiliating, but I deserve it, because these are my
2 failures. So I will accept any sentence this Court imposes.
3 Thank you.

4 THE COURT: Okay. Well, thank you very much. As I
5 said before, I've had an opportunity to study this file in
6 detail and have done it more than once. It's a little bit
7 unique. I've been a judge for 24-plus years and more often
8 than not, I'm sentencing drug dealers or bank robbers or
9 pedophiles, people that suffer from some form of chemical
10 addiction or mental disorder. You don't appear to have -- to
11 fall into any of these categories, but you clearly have
12 violated the law.

13 It's a dilemma for judges when dealing with good
14 people who have done bad things, but this has been dragging on
15 for a long time and I'm not sure that -- I'm not sure what
16 you've done to make good the mistakes or to pay any of the
17 uncontested amounts that you owe, which is of concern. Much of
18 your life has been committed to the rule of law, but you appear
19 to be totally insensitive to your obligations as a taxpayer.

20 And this is not a one-time event. I note the
21 Government writes you have a long and troubling history with
22 the IRS. For the years spanning 2000 to 2011, you only filed
23 one timely tax return and didn't seem to be moved by threatened
24 civil or criminal action. And then, of course, there was the
25 unemployment tax issue.

1 But your attitude towards taxation and the nation's
2 tax laws, especially as schooled in the law as you are, is
3 just, frankly, difficult to understand. It's almost mind
4 boggling to read this file and understand what the heck you
5 were thinking. And I've read with interest these letters
6 written on your behalf by people, frankly, who I respect, but
7 who I disagree with, to some degree here. And it's always been
8 interesting to me to see how people's perception of justice
9 differs based on who is being judged at the moment. I mean, we
10 really tend to see justice differently if we're dealing with
11 our friends as opposed to people we have little contact with.
12 I'm urged all the time, be tough on criminals, but not if it's
13 my criminal.

14 I remember early on in my career getting a letter
15 from a person that said, "Judge, we want to make sure that as a
16 new judge here that you're tough on these people that come
17 before you." And it was within that very year I got a letter
18 from that very same person whose son had been involved in, I
19 think it was, car theft, explaining to me that this was an
20 exception to the rule because he was really a good person. And
21 I've run into that time and time again and I see it here
22 somewhat today. Be lenient to our friends but make sure you're
23 tough on other criminals.

24 And so I looked at these letters. One writer
25 suggests that incarceration is not necessary for deterrence or

1 to protect the public. And your attorney has suggested that.
2 But I think deterrence is a large factor to consider. If
3 everyone acted toward the IRS as you have, this country would
4 be greatly impacted. Just think about it, if everybody
5 responded to our tax obligations the way you have for over a
6 decade, we'd be in bad shape.

7 Another writer suggests that you might be a victim of
8 hubris, but are otherwise a good man. So hubris, that's been
9 defined as, among other things, insolent disregard of moral
10 laws or restraints. Something in your psyche allowed you to
11 ignore a major obligation while doing many, many other good
12 things at the same time, and it is mind boggling. I don't
13 understand it.

14 You've been described as one of the best trial
15 attorneys in Alaska, which I don't doubt, and as honest, and a
16 man of integrity. But that just doesn't square with your
17 history of flaunting our tax laws. I mean, no one likes to pay
18 taxes, but we are all obligated to do that.

19 Another writer suggests that you are completely
20 unlikely to violate this law again. But that presumes that
21 your thinking toward the IRS or your attitude toward the IRS is
22 logical and rational, and I just -- I look at your years of
23 disregard for tax laws and your refusal to work with the IRS in
24 good faith, and I'm not so clear that if allowed to do this
25 again, you would somehow find a way to do it, because history

1 is a good predictor of future conduct. You've got a lot of
2 support now around you and it would be surprising that, in
3 light of all this, you would continue this pattern. But your
4 history in this regard is terrible.

5 You've been described as generous, but not when it
6 comes to paying your fair share of the taxes, and that's what
7 we're here about. Your good qualities are commendable, and I
8 think maybe that's why you were charged with only misdemeanors,
9 because in the back of everybody's mind, they'd like to see you
10 continue your practice of law, as I would, because I know your
11 good qualities. But we're not here to address your good
12 qualities, solely. They're not determinative of what your
13 sentence should be for this violation of the law.

14 Then of course there's -- many have written about
15 your commitment to your daughter. But again, most of the
16 people we sentence, probably 80 percent, have family members
17 that are adversely impacted by their loved one's criminal
18 activity.

19 So let me -- I probably should also note, I sentence
20 tax criminals all the time. I've done trials and they include
21 all walks of life. The most recent person that I did trial
22 with and had to sentence was a North Slope worker, but there's
23 been doctors and dentists and chiropractors and teachers and
24 engineers. All of them, for one reason or another, chose to
25 ignore the tax laws or to find some ways to illegally get

1 around them. And as you well know, there's no attorney
2 exception to the tax laws. It's a burden that we all carry.

3 So let's look at the 3553 factors. First of all,
4 there's the nature and circumstances of the crimes. They
5 occurred over a significant period of time, after extensive
6 opportunity for reflection, by one who clearly knew he was
7 doing wrong and who clearly should have known better. And who,
8 as an officer of the court, should have set a better example
9 for the community. I think the circumstances can fairly be
10 described as egregious.

11 And then let's talk about deterrence. I think that's
12 important. We need to send a message that we must all pay our
13 fair share of taxes, regardless of who we are, regardless of
14 what our positive qualities are. Those who are considering
15 violating our tax laws should be deterred, and that's a
16 legitimate factor to consider.

17 And respect for the law. My goodness, the law has
18 been good to you and you've been good to the law, in many
19 respects, but it's another important factor to consider, for
20 none of us is above the law.

21 Now, the IRS has many programs to deal with
22 delinquencies, and frequently works with taxpayers to
23 compromise or accept installment payments, or -- of tax debts
24 and I know the IRS generally goes to great effort to resolve
25 these matters before criminal charges are filed. But you, sir,

1 were reluctant to work with them in good faith. So punishment
2 has to be a factor that we consider as well.

3 And then protection of the public, that's a relevant
4 factor, for we're all members of this public, obligated as
5 citizens of the United States, to pay our fair share of taxes.

6 All these things, these 3553 factors, I've run
7 through my mind, and I'm fully aware of your positive
8 qualities. They are numerous and they are undeniable. You're
9 a good man who has contributed positively to the community and
10 who has extensive support among your colleagues. And I think
11 that does permit, to some degree, a variance from the guideline
12 sentence, but it does not justify a probationary sentence.
13 That would just be sending the wrong message entirely.

14 So I've looked at this carefully. Run it over in my
15 mind many, many times, what is fair to all involved, and after
16 considering it in detail, I think that a sentence of 14 months
17 is sufficient but not greater than necessary to satisfy the
18 sentencing goals. So I'm going to accept the parties' plea
19 agreement and then impose sentence accordingly, and let me make
20 it official.

21 Pursuant to the Sentencing Reform Act of 1984 and
22 considering the factors found in 18 U.S.C. 3553(a), it is the
23 judgment of the Court that the defendant, Paul D. Stockler, is
24 hereby committed to the custody of the Bureau of Prisons to be
25 imprisoned for a term of 14 months, consisting of eight months

1 on Count 1, two months on Count 2, and four months on Count 3,
2 all counts to be served consecutively.

3 Upon release from imprisonment, the defendant shall
4 be placed on supervised release for a term of one year on all
5 counts, to be served concurrently. Within 72 hours of release
6 from the custody of the Bureau of Prisons, the defendant shall
7 report in person to the Probation Office in the district to
8 which the defendant is released. While on supervised release,
9 the defendant shall not commit another federal, state, or local
10 crime, shall not possess any illegal controlled substance and
11 shall comply with the standard and special conditions that are
12 included in the judgment issued by the Court.

13 The mandatory condition of supervised release set
14 forth in 18 U.S.C. 3583(d) requiring the defendant to submit to
15 drug testing is suspended because there appears to be a low
16 risk of future substance abuse by the defendant.

17 The defendant shall pay restitution to the IRS in the
18 amount of \$886,058. The Court finds that a fine is appropriate
19 under these circumstances, and orders a fine in the amount of
20 \$5,000. It is further ordered the defendant shall pay the
21 United States a special assessment of \$75, which shall be paid
22 immediately to the Clerk of Court.

23 Now, we have a number of special conditions that I'm
24 going to read into the record. Some will apply now, some might
25 await conclusion of your appeal. Number one, the defendant

1 shall cooperate with a reasonable request of Internal Revenue
2 officers in good faith, best efforts, attempt to pay in full
3 any outstanding tax liability, including penalty and interest,
4 or enter into an installment payment plan with the Collection
5 Division of the Internal Revenue Service within 60 days from
6 the final assessment, first notice, and demand. This would
7 include filing of any unfiled tax returns in the past.

8 Two, the defendant shall provide to the United States
9 Probation Office a copy of any written and approved agreement
10 with the IRS for the payment of any outstanding tax liability
11 within 10 days from the execution of such agreement. If the
12 defendant entered into any such agreement, he shall make timely
13 payments and shall abide by the terms of such agreement during
14 his term of supervision.

15 Three, the defendant shall timely file accurate
16 future income tax returns as required by the law during the
17 probationary period unless an extension of time is granted by
18 the IRS, in which event the return shall be filed within the
19 period of the extension.

20 Four, defendant shall provide the probation officer
21 with access to any requested financial information, including
22 authorization to conduct credit checks, and shall obtain copies
23 of defendant's tax information and shall not incur any new
24 debts or apply for credit without prior approval of the
25 probation officer.

1 Five, the defendant shall pay tax loss in the amount
2 of \$886,058 to the Clerk of Court for the remittance to the
3 Internal Revenue Service for the tax loss determined by the
4 Court for tax years 2006, 2008, and 2009. Any unpaid amounts
5 of tax loss shall be paid during the period of supervision in
6 monthly installments, not less than 10 percent of defendant's
7 gross monthly income, or \$25, whichever is higher.

8 Six, the defendant shall apply for the Alaska
9 Permanent Fund Dividend each year he is eligible and proceeds
10 shall be applied to the amount of restitution owed.

11 I've indicated the fine is appropriate. We've got an
12 interesting situation, because everyone knows, I think -- maybe
13 you changed your mind -- that defendant anticipates an appeal.

14 MR. TOPEL: That's correct, Your Honor.

15 THE COURT: Okay. My understanding of the plea
16 agreement provides the defendant would appeal the sentence,
17 therefore defendant -- let me advise you of your appeal rights.

18 You're advised that you may appeal your sentence on
19 any of the grounds mentioned in 18 U.S.C. 3742. If you cannot
20 afford an appeal, you may ask to do so at public expense by
21 applying for leave to appeal in forma pauperis. If you request
22 it, the Clerk of Court will prepare and file a notice of appeal
23 on your behalf. If you wish to appeal, you must do so within
24 the 14-day time period allowed by Rule 4(b) of the Federal
25 Rules of Appellate Procedure. Clear?

1 MR. TOPEL: Clear.

2 THE COURT: Okay. So now what?

3 DEPUTY CLERK: I have some questions.

4 MR. TOPEL: Your Honor, I would ask that Mr. Stockler
5 be allowed to remain out on the same terms and conditions that
6 he has been on the underlying case. I've spoken with the
7 Government about that and they have indicated to me that they
8 are in agreement with that. I would ask that the sentence be
9 stayed until we can resolve the amount of taxes that may or may
10 not be actually owed as the trader issue is reviewed on appeal.

11 That, secondly, Mr. Stockler, during this period of
12 time, be allowed -- half of his practice is in California -- be
13 allowed to travel with notification to the Probation Office of
14 the dates of cases, and travel.

15 I think that's it.

16 THE COURT: What's your response?

17 MR. SWEENEY: We have no objection to self-surrender,
18 Your Honor, but we need -- I think I need to talk to my
19 supervisors about whether we would agree to stay the sentence.
20 We haven't talked about that before and I'm not sure that I
21 actually have --

22 THE COURT: Let me think about this. He's been
23 sentenced. We believe that within the next 14 days he's going
24 to file notice of appeal. Then the issue is, while on appeal,
25 is he a candidate for release pending resolution. Is he a

1 flight risk?

2 MR. SWEENEY: We don't believe he's a flight risk,
3 Your Honor.

4 THE COURT: Or a threat to the community?

5 MR. SWEENEY: No, Your Honor.

6 THE COURT: So I think the appellate court would tell
7 me, because they have before, under those circumstances, you
8 probably should let them -- let the appeal go and the person
9 should remain on release on bail conditions. That's what I've
10 been told by the appellate court on prior occasions when I've
11 remanded when there's no flight risk and there's no threat to
12 the community.

13 MR. SWEENEY: Sure.

14 THE COURT: If I -- you know, I don't want to get
15 reversed that quick.

16 MR. SWEENEY: The Government's amenable to that, Your
17 Honor.

18 THE COURT: Okay, all right. Anything else? So
19 basically, it appears that defendant is a good candidate for
20 voluntary surrender. Once the appeal is resolved, then he'll
21 have to stay in contact with the marshals. They'll notify him,
22 I presume, where he's going to spend his time, and then he'll
23 be required to surrender to that institution to serve out his
24 sentence. If he fails to appear, then of course he could be
25 looking at much, much more time.

1 And providing defendant complies with his bail
2 conditions and the relevant provisions of the provisions of
3 supervised release, his surrender date can be stayed until a
4 resolution of the appeal.

5 MR. TOPEL: Thank you, Your Honor.

6 THE COURT: Okay?

7 DEPUTY CLERK: Judge, I have some questions.

8 THE COURT: Okay. Your turn.

9 DEPUTY CLERK: Interest on the fine and restitution,
10 waived or not waived?

11 THE COURT: What's the Government's position on that?

12 MR. SWEENEY: That would be waived, Your Honor.

13 THE COURT: Okay.

14 DEPUTY CLERK: And how do I apply the fine to the
15 three different counts?

16 THE COURT: These are questions for you. She's
17 looking at me, but they're for you.

18 MR. SWEENEY: You could assess it all to Count 1.

19 THE COURT: Okay.

20 DEPUTY CLERK: Thank you.

21 THE COURT: Any other questions, Denali?

22 DEPUTY CLERK: No. Thank you.

23 THE COURT: Anything else from probation? Yes.

24 MS. HENSEL: Your Honor, I just want to clarify his
25 release conditions. He has been unsupervised to date. So his

1 conditions would need to be modified so that he is on pretrial
2 supervision. We would ask that he be required to report as
3 directed to us, generally telephonic.

4 THE COURT: Number one, Mr. Stockler, this applies to
5 you, you have to report to her as she indicates; okay? Number
6 one. Number two?

7 MS. HENSEL: To report any contact with law
8 enforcement.

9 THE COURT: If you get picked up for any legal
10 problems whatsoever, you have to tell your probation officer.

11 MS. HENSEL: Outside of his business, I just want to
12 clarify.

13 THE COURT: Not your business. Okay.

14 MS. HENSEL: And he notify us of travel outside of
15 Alaska, but he would need Court permission to travel
16 internationally.

17 THE COURT: Can't travel internationally without
18 Court permission and what -- and with regard to travel to
19 California, what is -- what's he supposed to do?

20 MS. HENSEL: To notify us when he's traveling there,
21 his arrangements.

22 THE COURT: Okay.

23 MS. HENSEL: And that's it.

24 THE COURT: Mr. Stockler, do you understand?

25 THE DEFENDANT: I do, Your Honor.

1 THE COURT: Do you agree?

2 THE DEFENDANT: I do.

3 THE COURT: Will you do it?

4 THE DEFENDANT: Yes, I will.

5 THE COURT: Counsel --

6 DEPUTY CLERK: I'm sorry, I wasn't hearing.

7 MR. TOPEL: He will.

8 DEPUTY CLERK: He was not near a microphone.

9 THE COURT: Okay. Pull the microphone closer. You
10 understand the conditions?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: Will you comply with them?

13 THE DEFENDANT: I will, Your Honor.

14 THE COURT: And this lady, this probation officer, is
15 who you've got to get friends with, because she's going to be
16 the one that directs your life, to some degree.

17 THE DEFENDANT: I will do that right as soon as this
18 hearing concludes.

19 THE COURT: Okay. Anything else, counsel?

20 MR. TOPEL: No, Your Honor. Thank you.

21 THE COURT: So we've sentenced, we've advised appeal
22 rights, we've taken up the issues what's going to occur between
23 now and resolution of the appeal. I think we're done for now.
24 Thank you all very much.

25 DEPUTY CLERK: All rise. This matter is now

1 adjourned. This court is adjourned, subject to call.

2 (Proceedings concluded at 10:50:29 a.m.)

3
4
5 CERTIFICATE

6 I, R. Joy Stancel, Federal Official Realtime Court
7 Reporter in and for the United States District Court for the
8 District of Alaska, do hereby certify that the foregoing
9 transcript is a true and accurate transcript from the original
10 digital record in the above-entitled matter and that the
11 transcript page format is in conformance with the regulations
12 of the Judicial Conference of the United States.

13 Dated this 2nd day of June, 2016.

14 /s/ R. Joy Stancel

15 _____
16 R. JOY STANCEL, RMR-CRR
17 FEDERAL OFFICIAL COURT REPORTER
18
19
20
21
22
23
24
25